

The Honorable James P. Donohue

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,

v.

DICKSON V. LEE,
Defendant.

Case No. CR14-24RAJ

**Motion to Reopen Detention Hearing
and Revoke Detention Order**

Clerk's Action Required:
Note for Motion May 16, 2014

Oral argument requested

MOTION

Defendant Dickson Lee, by his attorney Russell M. Aoki of Aoki Law PLLC, respectfully asks the Court to reopen the detention hearing held April 1, 2014, and revoke its Detention Order (Dkt. No. 14) and the Order Continuing Detention (Dkt. No. 23). Mr. Lee makes this motion under 18 U.S.C. § 3142(f).

Mr. Lee is the founder of L&L Energy, Inc., and until recently its face in China. His detention has severely compromised crucial relationships between the multimillion-dollar company and its Chinese business partners and customers. Without Mr. Lee's assistance in transitioning to new leadership, L&L Energy may be unable to protect the company's thousands of investors from irreparable harm because of the company's inability to fulfill its commitments or continue operations.

ARGUMENT

A. The April 1 detention order was based on a finding Mr. Lee had cut ties to L&L Energy and lacked ties to the United States

The Bail Reform Act of 1984 requires a defendant be released pending trial unless no condition or combination of conditions will reasonably assure their appearance and protect the community. 18 U.S.C. § 3142(e); *United States v. Hir*, 517 F.3d 1081, 1085–86 (9th Cir. 2008). Pretrial release is to be determined in consideration of (1) the nature and circumstances of the offence, (2) the weight of evidence, (3) the defendant’s history and characteristics, and (4) the nature and seriousness of any danger posed by the defendant. 18 U.S.C. § 3142(g); *United States v. Motamedi*, 767 F.2d 1403, 1407 (9th Cir. 1985). Only in rare circumstances should release be denied. *United States v. Townsend*, 897 F.2d 989, 993–94 (9th Cir. 1990). Doubts regarding the propriety of release should be resolved in favor of the defendant. *Id.* at 994. The mere opportunity to flee does not justify detention. *United States v. Gentry*, 455 F. Supp. 2d 1018, 1032 (D. Ariz. 2006).

This Court ordered Mr. Lee detained based on findings that Mr. Lee, though a United States citizen, had few ties to the United States other than through L&L Energy, and his resignation from the company had severed those ties as well. Detention Order at 1–2. In fact, L&L Energy still has a pressing need for Mr. Lee’s help despite his resignation, and in turn Mr. Lee’s personal and financial interests are still entwined with his former company.

B. Mr. Lee has strong incentives to remain in Seattle and enable L&L Energy to survive his departure

1. L&L Energy depends on relationships formed by Mr. Lee

Doing business in China depends on partnering with local businesses and cultivating personal relationships. *See generally* I.H.T. Bus. Navigator, *Business Etiquette for Hong Kong and the Mainland*, INT’L HERALD TRIB. (Dec. 7, 2010) at

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3 b1.¹ Mr. Lee, although a U.S. citizen, is well-versed with doing business in
4 China. He has developed relationships with key members of Chinese-based
5 companies and officials, and is familiar with regulations governing coal mining.
6 He is the face of L&L Energy and is well respected because of his cultural
7 awareness and extensive knowledge of the coal-mining industry. L&L Energy's
8 directors are highly qualified, independently successful mining and business
9 professionals, see Ex. 1 to Declaration of Russell M. Aoki, but they are not
10 parties to relationships developed between Mr. Lee and crucial players to the
11 company's continued success. Below are a few examples of L&L Energy's need
12 for Mr. Lee's help:

13 **Existing business partners.** L&L Energy, through Mr. Lee, has partnered
14 with several regional coal-mining companies and related enterprises. The
15 business arrangements with at least one such partner are based on personal
16 relationships with Mr. Lee, and have become uncertain in his absence. L&L
17 Energy's directors have travelled to China on short notice to try and quell this
18 uncertainty. It would help ensure a productive meeting if Mr. Lee could speak to
19 L&L Energy board members and representatives of the other company over the
20 phone, and make introductions between the parties. This would help preserve
21 the continuity of L&L Energy's valuable relationship with this company.

22 **Potential business partners.** At the time of his arrest, Mr. Lee was
23 midway through negotiations with a potential new business partner. L&L Energy
24 does not know how far these negotiations had progressed, or what the agreed
25 terms may have been. L&L Energy has asked for Mr. Lee's help in informing
26 them about the state of negotiations and introducing them and L&L Energy's
27 staff to their counterparts in this other company.

28 ¹Available at <http://www.nytimes.com/2010/12/07/business/global/07iht-busnav.html>.
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3 **Customers.** L&L Energy has approximately \$100 million in receivables
4 on its balance sheet, held by distributors and customers who have dealt with
5 the company primarily or exclusively through Mr. Lee. Without Mr. Lee's
6 assistance, L&L Energy may have difficulty timely collecting these accounts.

7 **2. L&L Energy needs Mr. Lee's out-of-custody assistance to ensure the**
8 **continuity of these relationships**

9 As L&L Energy's counsel noted at the last hearing, the board of directors
10 takes the allegations against Mr. Lee very seriously and recognizes his conduct
11 has jeopardized the company's future. For this reason they accepted Mr. Lee's
12 resignation. However, L&L Energy will be disadvantaged without Mr. Lee's
13 continued participation for the near future because he was involved in so many
14 aspects of the company's business. L&L Energy will not fully benefit from
15 relationships formed by Mr. Lee unless Mr. Lee participates in introducing and
16 vouching for the person or people who will step in for him. Mr. Lee would also
17 need to prepare L&L Energy's new leadership and negotiators on pending deals
18 and train them to deal with their counterparts. This transition will likely take
19 time and require extensive real-time communication. Detention precludes the
20 access to Mr. Lee L&L Energy needs.

21 **3. Mr. Lee retains greater ties to L&L Energy and the Seattle area than**
22 **were revealed at the April 1 hearing**

23 This Court recognized that ties to L&L Energy would incent Mr. Lee to
24 remain in the United States, see Detention Order at 2, but mistakenly concluded
25 Mr. Lee has severed those ties. In fact, he retains strong financial and
26 emotional connections.

- 27 • Though Mr. Lee did step down from his leadership role, he remains a
28 significant investor, recently buying \$1 million of L&L Energy's stock.
29 • Mr. Lee is personal guarantor on bank loans to L&L Energy worth millions
30 of dollars. Because many of these loans are from East West Bank, which
 operates in China and Taiwan, he could not avoid responsibility by

fleeing to these countries. Defaulting on notes in China could lead to Mr. Lee's arrest.

- Mr. Lee founded the company now known as L&L Energy 19 years ago. The company's success is a source of pride; its failure would be a deep hurt.

As discussed, L&L Energy's survival depends on Mr. Lee's continued assistance. Flight would imperil the company and injure Mr. Lee both financially and emotionally.

Mr. Lee has strong ties to the local business and civic community. Lo Yu Sun, owner of the China Harbor restaurant, has known Mr. Lee for ten years. He writes:

I write to support my friend, Dickson Lee. ... Dickson and I are both part of the Seattle business community. We play golf together.

Dickson is very involved in local politics. My restaurant has hosted many political fundraisers with Dickson over the years Dickson believed in these [political candidates] and wanted to support the community by helping elect good leaders.

Dickson has spent many years of his life living here and building his company. I don't know anything about the subject of this case, but believe Dickson will deal with it straightforwardly instead of jeopardizing his reputation by going against a court order. I know Dickson as a man you can trust to do what he says. I believe he will appear in court when required and follow any conditions you order.

Letter from Lo Yu Sun (Ex. 2 to Aoki Decl.).

Yvonne Mei, Senior Vice Chair of the nonprofit International Leadership Foundation, has known Mr. Lee for eight years. She writes:

It is my pleasure to be a reference for Dickson Lee. ... The Foundation secures internships for 20 to 30 high school students around the country to work at federal agencies in Washington, D.C. Mr. Lee has been instrumental in helping raise funds for this important organization where the cost for each student is typically \$10,000 to \$15,000. Because of his help, many students gain important work experience, which helps them gain admission into college.

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3 Through the years, I have found Mr. Lee to be a reliable and
4 responsible person who always delivers what he says he
will. I believe Mr. Lee will comply with any court conditions
imposed pertaining to his release from detention.

5 Letter from Yvonne Mei (Ex. 3 to Aoki Decl.). In recognition of his “commitment
6 to strengthening” the United States through volunteer service, in 2011 Mr. Lee
7 received a presidential Volunteer Service Award. Ex. 4 to Aoki Decl. And in
8 2008, the U.S. Department of Commerce awarded him a Certificate of
9 Appreciation for his contribution and Support to the Asian American business
10 community. Ex. 5 to Aoki Decl.

11 In addition to this evidence of local ties, and those already considered by
12 the Court (including Mr. Lee’s two Kent houses), Mr. Lee’s health gives him
13 reason to remain in the area. Mr. Lee has a heart condition and a herniated
14 disk. Though he has sought treatment for these conditions while in detention, if
15 released pending trial he could continue to receive treatment through his own
16 doctors rather than at the expense of the federal government.

17 **CONCLUSION**

18 Mr. Lee has strong and lasting ties to the United States and a good
19 reputation built on decades of work in the local business community. More
20 importantly, he retains strong emotional and financial ties to L&L Energy.
21 Without Mr. Lee’s assistance for the near future, assistance he could only
22 provide outside of detention, L&L Energy, its employees, and its thousands of
23 investors will likely suffer significant financial harm. Mr. Lee has known of the
24 Government’s criminal investigation for years, but has always returned to his
25 home here in Washington. Considering his strong incentives against flight,
26 detention is unnecessary to ensure Mr. Lee’s future appearance. Mr. Lee
27 submits surrendering his passport, electronic monitoring, regular Pretrial
28 Service check-ins, or all three would more than suffice as safeguards. Because
29 18 U.S.C. § 3142(e) mandates pretrial release unless no release conditions

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3 offer reasonable assurances, Mr. Lee asks the Court to reopen the detention
4 hearing and revoke the detention order.

5 Dated this 8th day of May 2014.

6 By:

7 s/ Russell M. Aoki

8 Russell M. Aoki, WSBA No. 15717

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